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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/803,360	03/12/2001	Werner Zagler	951/49628	4213

7590 07/25/2006

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Washington, DC 20044-4300

EXAMINER

LIEU, JULIE BICHNGOC

ART UNIT	PAPER NUMBER
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2612

DATE MAILED: 07/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/803,360
Filing Date: March 12, 2001
Appellant(s): ZAGLER, WERNER

Jeffrey Sanok
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed May 12, 2006 appealing from the Office action mailed January 24, 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The following are the related appeals, interferences, and judicial proceedings known to the examiner which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal:

The present appeal is the second appeal of this application. The earlier appeal No. 2004-1328, of which Brief was filed on August 04, 2003, resulted in a decision on appeal, a copy of which is attached in the Related Proceedings Appendix, wherein the Board noted, in affirming the Examiner's rejection, that the originally appealed claims did not contain a negative limitation that distinguished over the cited reference.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

DE 42 03 512 C1 BOEHM 5-1993

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9 are again rejected under 35 U.S.C. 103(a) as being unpatentable over Boehm (DE 4203512C1) (cited by the applicant).

Claim 5:

Boehm discloses a system for facilitating entry into or out of a motor vehicle having at least one vehicle door, in which window is lowerable and closeable and to which an opening/closing detecting device is assigned, the system comprising:

- a. An unlocking device (release switch);
- b. A control device for controlling window actuator; and
- c. Wherein the control device has input which receive a signal reflecting an unlock command has been received and, either simultaneously or subsequently, the vehicle door

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has been opened, without requiring any further action by a user. See abstract and also page 11, second paragraph.

d. command and a signal which corresponds to a door opening or closing action, the control device operating the actuator to completely lower the window of the vehicle door as soon as an unlock

The double unlock command is not used in Boehm. However, it would have been obvious to one skilled in the art to use double door release command as desired because it is only a choice in design to differentiate between functions. For example, vehicles with remote door lock/unlock functions used to unlock all doors upon the actuation of the unlock button once, but nowadays, a single unlock command would unlock the driver door and the use of a double unlock command is used to differentiate from the single unlock command to unlock all doors. Therefore, a skilled artisan would have used the double unlock command to allow to the system in Boehm to recognize that additional function, other than to unlock the doors, is desired. Furthermore, as pointed out on page 3 of the Board of Appeals decision dated Jan. 20, 05, the specification of the present invention pages 1 and 2 and the summary of invention of the Brief admits that this is known in the art. Therefore, a skilled artisan would have applied this known techniques in the system of Boehm as desired since it is well known and familiarized by one of ordinary skill in the art.

Claim 6:

It is not clear in Boehm whether the control device operates the actuator to completely close the window of the vehicle door after the door is closed. Nonetheless, one skilled in the art would have readily recognized that most likely the window should be completely raised while

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the door is closed for safety reasons, such as theft or rain, unless it is desired to be lowered by the driver while operating the vehicle or for some particular purposes while the vehicle is parked.

Claim 7:

It is inherent that the system in Boehm would have an anti-squeeze device which monitors the closing operating of the window.

Claim 8:

Though Boehm does not include a remote door lock/unlock device, it is conventionally used nowadays with most vehicles. Therefore, it would have been obvious to one skilled in the art to modify the system in Boehm to be used with a remote door lock/unlock device. All door unlock/lock remote control devices comprise a door command point.

Claims 1-4:

The rejection of claims 1-4 recites the rejection of claim 5-8 except they are method claims

Claim 9:

The rejection of claim 9 recites the rejection of claim 1, except it is a software which is inherently disclosed in Boehm for the system to carry out those functions.

(9) Appellant's Arguments

The Appellant has argued that Boehm does not lower the window "as soon as" the double unlock command and the opening of the vehicle door occurs without requiring any further action by a user.

The Appellant has further asserted Boehm requires that the user hold the door handle at an open state for a set time period after opening the door. The Appellant has stated that Boehm

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teaches away from such automatic operation by essentially requiring an additional user action of holding the door handle in an open state for a non-normal time period and has asserted that this essentially creates a special window lowering command. The Appellant has further contended that operating the gripping handle for a longer time period is a conscious act by the user to create the window lowering command, otherwise, the window would always lower in the Boehm reference, which is certainly not a desirable feature.

(10) Response to Argument

It is submitted that the vehicle window in Boehm lowers as soon as the two actions occur without requiring any further action by a user. That is to say, when the door opening command is received and the door is opened the window is lowered while no “further” action by a user is required other than the action of opening the door, which is also the case in the present invention.

It is true that Boehm requires the user to hold the door handle at an open state for the set time period of more than 1 second. However, as for the door of the present invention to be opened, i.e. door handle is actuated, and for the door open switch signal to be received by the controller to indicate that the door handle switch has come to an opened position, as described in the specification paragraphs [0015] and [0019], it would definitely take some time which is greater than 0 second; thus, “as soon as” is interpreted as to be some time period and this time period could take up more than 1 second. It is not clearly disclosed in the specification and/or recited in the claims how much the time elapse “as soon as” is, it is presumed that it could be half a second, one second, or a second and a half, which is about the same time it takes for the event to take place as in Boehm’s. Thus, Boehm’s one second is interpreted as “as soon as”.

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(11) Related Proceeding(s) Appendix

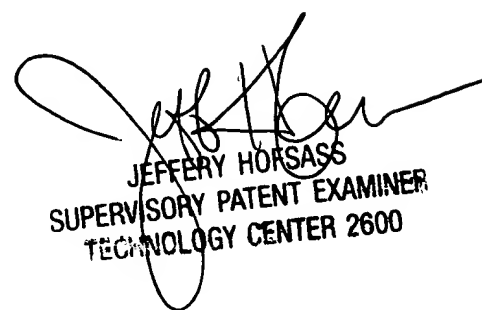
Copies of the court or Board decision(s) identified in the Related Appeals and Interferences section of this examiner's answer are provided as an Appendix in the Appellant's Brief.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

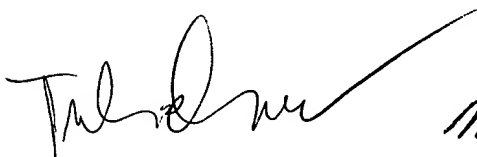


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EXAMINER

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See Attachment

Julie Lieu
Primary Examiner
Art Unit: 2612